



Reprinted
February 12, 2008

ENGROSSED HOUSE BILL No. 1114

DIGEST OF HB 1114 (Updated February 11, 2008 3:08 pm - DI 87)

Citations Affected: IC 36-8; noncode.

Synopsis: Police officer and firefighter residency. Establishes separate statutes that define general residency requirements for each of the following: (1) Members of city police and fire departments. (2) Members of town police and fire departments (excluding volunteer fire departments or members who are volunteer firefighters). (3) Members of township fire departments (excluding volunteer fire departments or
(Continued next page)

Effective: July 1, 2008.

**Dembowski, Candelaria Reardon,
Steuerwald**

(SENATE SPONSORS — LAWSON C, DEIG)

January 8, 2008, read first time and referred to Committee on Local Government.
January 24, 2008, amended, reported — Do Pass.
January 28, 2008, read second time, ordered engrossed. Engrossed.
January 29, 2008, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Local Government and Elections.

February 7, 2008, amended, reported favorably — Do Pass.
February 11, 2008, read second time, amended, ordered engrossed.

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members who are volunteer firefighters). Provides that a town legislative body may adopt an ordinance or a township legislative body may adopt a resolution requiring a member of a police or fire department to live within the county in which the town or township is located or within a certain distance from the township or town. Provides that such an ordinance or resolution may not apply to a member who does not comply with the requirements of the ordinance or resolution on the date the ordinance or resolution is adopted. Provides that a member appointed to a town metropolitan police department or town marshal system before July 1, 2008, may not be required to reside within: (1) the county in which the town is located; or (2) a county that is contiguous to the county in which the town is located; if the member resided within a noncontiguous county on July 1, 2008. Provides that members of town police and fire departments may not use vehicles owned or maintained by their department outside the county except during the performance of official duties or as provided for by department regulation.

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February 12, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1114

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-4-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in~~
3 ~~subsections (c) and (d);~~ Members of the police and fire departments
4 must reside in Indiana ~~in one (1) of the following areas:~~ **within:**

5 (1) ~~Within~~ the county in which the city ~~town~~, or township is
6 located; or

7 (2) ~~In~~ a county that is contiguous to the county in which the city
8 ~~town~~, or township is located.

9 (b) In a consolidated city, a member who was residing outside the
10 county on January 1, 1975, is exempt from subsection (a).

11 (c) A ~~municipality~~ city with a population of less than seven
12 thousand five hundred (7,500) may adopt an ordinance that requires a
13 member of the ~~municipality's~~ city's police or fire department to comply
14 with the following:

15 (1) Reside within the county in which the ~~municipality~~ city is
16 located.

17 (2) Have adequate means of transportation into the ~~municipality~~.

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city.

(3) Maintain in the member's residence telephone service with the municipality city.

(d) This subsection applies to a municipality city that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A municipality city may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the municipality city until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a municipality's city's police or fire department to reside within the county in which the municipality city is located if the member resides outside the county on the date the ordinance is adopted.

SECTION 2. IC 36-8-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 4.5. Town Police and Fire Employment Policies

Sec. 1. This chapter applies to the following:

(1) A member of a town police department under IC 36-5-7 or IC 36-8-9.

(2) A member of a town fire department.

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a town fire department" does not include a volunteer firefighter under IC 36-8-12-2.

Sec. 4. A member of a town police or fire department must reside in Indiana within:

(1) the county in which the town is located; or

(2) a county that is contiguous to the county in which the town is located.

Sec. 5. A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:

(1) Reside within:

(A) the county in which the town is located; or

(B) a distance from the town stated in the ordinance.

(2) Have adequate means of transportation into the town.

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(3) Maintain in the member's residence telephone service with the town.

Sec. 6. This section applies to a town that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this section before September 1, 1984.

A town may require, in addition to the requirements of section 5 of this chapter, that a member of the police or fire department reside within the town until the member has served in the department for five (5) years.

Sec. 7. An ordinance adopted under section 5 or 6 of this chapter may not require a member of a town police or fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the town greater than stated in the ordinance;

on the date the ordinance is adopted.

Sec. 8. Notwithstanding any other law, a member appointed to a town police department under IC 36-5-7 or IC 36-8-9 before July 1, 2008, may not be required to reside within:

(1) the county in which the town is located; or

(2) a county that is contiguous to the county in which the town is located;

if the member resided within a county that is noncontiguous to the county in which the town is located on July 1, 2008.

Sec. 9. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the town is located except:

(1) during the performance of official duties; or

(2) as provided for by department regulation.

SECTION 3. IC 36-8-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board may appoint, subject to the qualifications for employment determined by the board and approved by the town legislative body, as many persons as necessary to serve in the police department of the town. One (1) person shall be appointed to serve as the police chief. The board may also appoint other employees that are necessary to carry on the work of the police department.

(b) The board may recommend and the town legislative body shall determine the compensation to be paid to members of the police department in amounts that are just and reasonable.

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(c) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of any member of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(d) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

(e) Members of the police department must:

- (1) reside within the county in which the town is located;
- (2) reside within fifteen (15) miles of the corporate boundaries of the town;
- (3) have adequate means of transportation into the town; and
- (4) maintain in their residence telephone service with the town.

SECTION 4. IC 36-8-13.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 13.5. Township Fire Department Employment Policies

Sec. 1. This chapter applies to all townships except a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a township fire department" does not include a volunteer firefighter under IC 36-8-12-2.

Sec. 4. A member of a township fire department must reside in Indiana within:

- (1) the county in which the township is located; or
- (2) a county that is contiguous to the county in which the township is located.

Sec. 5. A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:

- (1) Reside within:
 - (A) the county in which the township is located; or
 - (B) a distance from the township stated in the resolution.

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(2) Have adequate means of transportation into the township.

(3) Maintain in the member's residence telephone service with the township.

Sec. 6. This section applies to a township that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted a resolution to establish the requirements described in this section before September 1, 1984.

A township may require, in addition to the requirements of section 5 of this chapter, that a member of the township fire department reside within the township until the member has served in the department for five (5) years.

Sec. 7. A resolution adopted under section 5 or 6 of this chapter may not require a member of a township fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the township greater than stated in the resolution;

on the date the resolution is adopted.

SECTION 5. [EFFECTIVE JULY 1, 2008] (a) IC 36-8-4.5-9, as added by this act, does not apply to or abrogate an agreement or a contract in effect on July 1, 2008.

(b) IC 36-8-4.5-9, as added by this act, applies to an agreement or a contract entered into, renewed, or extended after June 30, 2008.

(c) This SECTION expires July 1, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1114, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 36-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in subsections (c) and (d);~~ Members of the police and fire departments must reside in Indiana ~~in one (1) of the following areas:~~ **within:**

- (1) ~~Within~~ the county in which the city ~~town, or township~~ is located; or
- (2) ~~In~~ a county that is contiguous to the county in which the city ~~town, or township~~ is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) A ~~municipality~~ **city** with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the ~~municipality's~~ **city's** police or fire department to comply with the following:

- (1) Reside within the county in which the ~~municipality~~ **city** is located.
- (2) Have adequate means of transportation into the ~~municipality~~ **city**.
- (3) Maintain in the member's residence telephone service with the ~~municipality~~ **city**.

(d) This subsection applies to a ~~municipality~~ **city** that:

- (1) has a population of less than seven thousand five hundred (7,500); and
- (2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A ~~municipality~~ **city** may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the ~~municipality~~ **city** until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a ~~municipality's~~ **city's** police or fire department to reside within the county in which the ~~municipality~~ **city** is located if the member resides outside the county on the date the ordinance is adopted.

SECTION 2. IC 36-8-4.5 IS ADDED TO THE INDIANA CODE

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AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 4.5. Town Police and Fire Employment Policies

Sec. 1. This chapter applies to the following:

- (1) A member of a town police department under IC 36-5-7 or IC 36-8-9.
- (2) A member of a town fire department.

Sec. 2. A member of a town police or fire department must reside in Indiana within:

- (1) the county in which the town is located; or
- (2) a county that is contiguous to the county in which the town is located.

Sec. 3. A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:

- (1) Reside within:
 - (A) the county in which the town is located; or
 - (B) a distance from the town stated in the ordinance.
- (2) Have adequate means of transportation into the town.
- (3) Maintain in the member's residence telephone service with the town.

Sec. 4. This section applies to a town that:

- (1) has a population of less than seven thousand five hundred (7,500); and
- (2) adopted an ordinance to establish the requirements described in this section before September 1, 1984.

A town may require, in addition to the requirements of section 3 of this chapter, that a member of the police or fire department reside within the town until the member has served in the department for five (5) years.

Sec. 5. An ordinance adopted under section 3 or 4 of this chapter may not require a member of a town police or fire department to comply with section 3(1) of this chapter if the member resides:

- (1) outside the county; or
- (2) a distance outside the town greater than stated in the ordinance;

on the date the ordinance is adopted.

Sec. 6. Notwithstanding any other law, a member appointed to a town police department under IC 36-5-7 or IC 36-8-9 before July 1, 2008, may not be required to reside within:

- (1) the county in which the town is located; or
- (2) a county that is contiguous to the county in which the town

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is located;
 if the member resided within a county that is noncontiguous to the county in which the town is located on July 1, 2008."

Page 2, delete lines 1 through 16.

Page 3, delete lines 4 through 22, begin a new paragraph and insert:

"SECTION 4. IC 36-8-13-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) A member of a township fire department must reside in Indiana within:**

- (1) the county in which the township is located; or
- (2) a county that is contiguous to the county in which the township is located.

(b) A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:

- (1) Reside within:
 - (A) the county in which the township is located; or
 - (B) a distance from the township stated in the resolution.
- (2) Have adequate means of transportation into the township.
- (3) Maintain in the member's residence telephone service with the township.

(c) This subsection applies to a township that:

- (1) has a population of less than seven thousand five hundred (7,500); and
- (2) adopted a resolution to establish the requirements described in this subsection before September 1, 1984.

A township may require, in addition to the requirements of subsection (b), that a member of the fire department reside within the township until the member has served in the department for five (5) years.

(d) A resolution adopted under subsection (b) or (c) may not require a member of a township fire department to comply with subsection (b)(1) if the member resides:

- (1) outside the county; or
- (2) a distance outside the township greater than stated in the resolution;

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on the date the resolution is adopted."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1114 as introduced.)

SMITH V, Chair

Committee Vote: yeas 10, nays 0.

SENATE MOTION

Madam President: I move that Senator Deig be added as cosponsor of Engrossed House Bill 1114.

LAWSON C

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred House Bill No. 1114, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"Sec. 7. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the town is located except:

- (1) during the performance of official duties; or**
- (2) as provided for by department regulation."**

Page 4, delete lines 9 through 41, begin a new paragraph and insert:

"SECTION 4. IC 36-8-13.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 13.5. Township Fire Department Employment Policies

Sec. 1. This chapter applies to all townships except a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a township fire

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department" does not include a volunteer firefighter under IC 36-8-12-2.

Sec. 4. A member of a township fire department must reside in Indiana within:

- (1) the county in which the township is located; or
- (2) a county that is contiguous to the county in which the township is located.

Sec. 5. A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:

- (1) Reside within:
 - (A) the county in which the township is located; or
 - (B) a distance from the township stated in the resolution.
- (2) Have adequate means of transportation into the township.
- (3) Maintain in the member's residence telephone service with the township.

Sec. 6. This section applies to a township that:

- (1) has a population of less than seven thousand five hundred (7,500); and
- (2) adopted a resolution to establish the requirements described in this section before September 1, 1984.

A township may require, in addition to the requirements of section 5 of this chapter, that a member of the township fire department reside within the township until the member has served in the department for five (5) years.

Sec. 7. A resolution adopted under section 5 or 6 of this chapter may not require a member of a township fire department to comply with section 5(1) of this chapter if the member resides:

- (1) outside the county; or
- (2) a distance outside the township greater than stated in the resolution;

on the date the resolution is adopted.

SECTION 5. [EFFECTIVE JULY 1, 2008] (a) IC 36-8-4.5-7, as added by this act, does not apply to or abrogate an agreement or a contract in effect on July 1, 2008.

(b) IC 36-8-4.5-7, as added by this act, applies to an agreement or a contract entered into, renewed, or extended after June 30, 2008.

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(c) This SECTION expires July 1, 2011."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1114 as printed January 25, 2008.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1114 be amended to read as follows:

Page 2, between lines 25 and 26, begin a new paragraph and insert:

"Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a town fire department" does not include a volunteer firefighter under IC 36-8-12-2."

Page 2, line 26, delete "2." and insert **"4."**

Page 2, line 31, delete "3." and insert **"5."**

Page 2, line 40, delete "4." and insert **"6."**

Page 3, line 3, delete "3" and insert **"5"**.

Page 3, line 7, delete "5." and insert **"7."**

Page 3, line 7, delete "3 or 4" and insert **"5 or 6"**.

Page 3, line 9, delete "3(1)" and insert **"5(1)"**.

Page 3, line 14, delete "6." and insert **"8."**

Page 3, line 22, delete "7." and insert **"9."**

Page 5, line 15, delete "IC 36-8-4.5-7," and insert **"IC 36-8-4.5-9,"**

Page 5, line 18, delete "IC 36-8-4.5-7," and insert **"IC 36-8-4.5-9,"**

(Reference is to EHB 1114 as printed February 8, 2008.)

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